

09 September 2017

To: Claude Moraes MEP

Entry and residence of third-country nationals for the purposes of highly skilled employment

Dear Mr. Moraes,

This week you will take part in the trilogue meeting on the revision of the Blue Card Directive. On behalf of Permits Foundation, I write to you regarding the important issue of family access to employment and procedure times. We were in contact with your office in the run up to the LIBE vote on your revised Blue Card report and appreciate the improvements that were made to the Commission proposal regarding family members.

Permits Foundation is an independent, not-for-profit organisation supported by over [40 major international companies](#) and organisations operating in the EU and worldwide. We promote access to employment for the family members of employees on international assignments, resulting in a triple win for host countries, employers and families alike. Since 2001, Permits Foundation has worked with EU policy makers and legislators to secure this entitlement in EU legislation, particularly in the current Blue Card Directive and Intra-Corporate Transfer Directive.

In negotiating a final position on the revised Blue Card scheme, we urge you to take on board the following points.

1. Article 16 - Family members

Access to employment for family members is recognised (Recital 36) as a fundamental element of the new Blue Card Directive in order to facilitate the attraction of highly skilled workers. We are therefore very concerned that Article 16.6 also includes a possible labour market check. We view this as a backward step. The current Blue Card Directive (2009) does not mention a labour market check for family members and most Member States have done away with this hurdle, in line with the removal of the 12-month period during which they could place conditions that were possible under the Family Reunification Directive of 2003.

The re-introduction of a labour market check, even as a 'may' clause, would run contrary to the objective of fostering competitiveness and growth in the EU. It would act as a deterrent for those considering an assignment and impact disproportionately on women, who make up the majority of accompanying partners, and thereby also on gender diversity in the workforce. It would also impact on businesses and Member States, creating more uncertainty, complexity and administrative cost. For example, how should a self-employed spouse demonstrate a job offer or a concerned vacancy that could not be filled by an EU national?

Also, the parallel and later Intra-Corporate Transfer Directive (2014) includes direct access to employment and self-employment throughout the duration of the assignment "to produce all the expected benefits for competitiveness of business in the Union." This was hailed as one of the innovative aspects in a [Council press release](#) in 2014. When the whole intention of the Blue Card repeal is to improve its attractiveness, we feel it would be incoherent to limit such a fundamental element that has already been allowed in a parallel directive for highly qualified intra-corporate transferees.

Our extensive [surveys](#) show that countries that guarantee spouse access to employment are more attractive to highly skilled employees associated with international business, investment and development. Importantly, partners of employees need certainty that they can access work before the decision to relocate is made. Moreover, access to employment for partners has a positive impact on highly skilled employees' willingness to accept, complete and extend an international relocation, as well as on health, well-being and integration of the family members into the host country.

With respect to integration, we note that the European Parliament has recommended a helpful amendment to Recital 1 to recall that EU's 2020 strategy and objectives include "better integration of migrants". Direct access to employment for family members, without a labour market test, will help meet this objective.

Globally, more than [30 countries](#) recognise the importance of dual careers in the global workplace. Australia, Canada, Hong Kong, New Zealand and USA, and more recently Brazil and Peru, are some examples of countries that (alongside most of the EU) allow spouses, partners or other family members to work or be self-employed, without a test of the labour market and not limited to a specific employer. The European Commission's own research shows that these countries are attracting highly skilled workers in competition with the EU.


We strongly support the European Parliament's recent vote to remove the labour market check and urge you to hold strong on this in discussions with the Commission and Council.

2. Article 10.1 and Article 16.4 (procedural safeguards/decision times)

Application procedures for employees and family members should preferably be completed within 30 days as recommended by the European Parliament, rather than 60 days in the original proposal, to improve the speed and efficiency of relocation and reduce uncertainty time for employers and employees. While recognizing that a max of 90 days is allowed under the current Blue Card Directive and the Intra-Corporate Transfer Directive, we urge continued improvement of these timelines, given advances in online technology and a two year transposition time after adoption. In that light, retaining a 90 day period, as suggested by the Council, would not be competitive in an international setting and would undermine the image of a new Blue Card.

We urge the Commission, Council and Parliament to take our requests into consideration when finding areas for common ground during the Blue Card negotiations. Permits Foundation research and [resources](#) are at your disposal and we would be very pleased to have a meeting to discuss further. We will contact you separately to arrange a date.

Yours sincerely,



K. van der Wilk-Carlton,
Board member, Permits Foundation

Helen Frew
International Advocacy Advisor, Permits Foundation